

1 A. Alali

2 THE WITNESS: Okay.

3 A. Okay.

4 Q. Has the review of the complaint
5 refreshed your recollection as to what was said
6 to you when you received the assignment to the
7 hospital post from Lieutenant Debara?

8 A. Yes.

9 Q. Could you tell us in words or
10 substance what he said to you and what, if
11 anything, you said to him?

12 A. On that date, Lieutenant Debara
13 assigned me at roll call to the hospital post.
14 Subsequently a few months after receiving that
15 post, I went to the desk where Sergeant Wilson
16 was working, and I asked him, you know, why I
17 had received that post due to the fact there
18 were probationary officers several of them
19 working that day. He was very irate that I had
20 asked him that question and stated in sum or
21 substance get the fuck out of my face, whereas
22 not another word in the presence of several
23 civilian members of service.

24 Q. Did you ask Lieutenant Debara why
25 you had received the post?

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2 A. Yes. I then was at the hospital
3 post where Lieutenant Debara came by to give
4 me -- I clearly remember this -- give you a
5 meet and scratch my notebook and stated that,
6 you know, that I would -- that he did it
7 because he can, and that from now on, I would
8 be watching suicidal prisoners, if there was
9 one, directing traffic, working at a utility
10 car, and going to the county jail. On that
11 day, there was a sign-in sheet at the hospital.
12 I do remember that there was probationary or
13 junior officers, new officers that were there
14 prior to me, and then I was subsequently
15 relieved by a probationary or junior officer.

16 Q. Now, in reference to --

17 A. And also I remember memorializing
18 that conversation in writing to the internal
19 affairs officer, obviously we just have one,
20 Lieutenant James Fortunato to investigate the
21 matter.

22 Q. Is it correct that, when you
23 received that assignment to the hospital post
24 from the Lieutenant Debara, that you told him
25 about your first lawsuit, is that correct?

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2 A. I don't presently recall what I
3 told him.

4 Q. You had mentioned earlier an
5 assignment that you received to double parking
6 during a period of time of February to April
7 2007, am I correct?

8 A. If I did, what -- I don't remember
9 the date I was assigned to that, but I was
10 giving specific examples of what Debara had
11 directly supervised me giving me specific tasks
12 to do. One of those tasks did encompass double
13 parking on Main Street and North Avenue where I
14 had written many tickets. I don't know if it
15 was a period of time that you are specifically
16 speaking about, but.

17 Q. And is that an assignment that you
18 received directly from Lieutenant Debara?

19 A. Yes. He had called me in the
20 office stated that there was a condition that
21 Commissioner Carroll wanted alleviated and that
22 I would be the right man for that job, and I
23 believe I wrote this document, I don't know the
24 dates, but hundreds of summons were written
25 when he had me doing that assignment.

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2 Q. You had mentioned earlier an
3 assignment to a utility car. Could you explain
4 what you mean by a utility car?

5 A. It's a term that the New Rochelle
6 Police Department designates as a, perhaps,
7 extra car that picks up all types of jobs to
8 alleviate the burden on the sector cars. Also
9 a utility car, as I stated, is an extra car
10 that could be used to relieve a hospital
11 prisoner, watch a suicidal prisoners inside
12 headquarters, to be used as a many different
13 ways. It's to supplement -- I think usually
14 given primarily to officers that are junior or
15 officers that are being punished.

16 Q. Now, is that an assignment that
17 must be given to a sworn police officer?

18 A. Yes.

19 Q. Is it your opinion that you should
20 not have been given that assignment?

21 MS. NICAJ: Objection. You can
22 answer.

23 A. Like I stated earlier, that is an
24 assignment that is primarily given to junior
25 officers or officers that are being placed on

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2 punishment. That has been the past practice
3 since I have been there.

4 Q. How long were you assigned to the
5 utility car?

6 A. I don't know. I don't have exact
7 dates.

8 Q. Approximately.

9 A. I can't tell you. I don't have
10 that roll calls in front of me to refresh my
11 memory, but I have been assigned to utility
12 cars. I have been assigned as a civilian
13 dispatcher which I am currently serving as now.
14 I have been assigned to watch suicidal
15 prisoners, when there is junior people working,
16 and I have been assigned to utility cars. I
17 can't tell you how many dates or times, but
18 numerous times. For a year now, I have been
19 working as a civilian dispatcher inside of the
20 radio room.

21 Q. Let's go one at a time. We will
22 get there. The utility cars, were you assigned
23 to the utility car on more than 5 occasions in
24 the period of time of February through April
25 '07?

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2 A. It could have been. I'm not 100
3 percent sure.

4 Q. Can you estimate the number of
5 times that you were assigned to utility car in
6 the period of February to April 2007?

7 A. I cannot estimate, no.

8 Q. Am I correct that you are not
9 certain whether the double parking assignment
10 occurred between February and April 2007?

11 A. That is correct.

12 Q. Am I correct that the hospital
13 assignment that you referenced did occur
14 between February and April 2007?

15 A. Yes.

16 Q. You had mentioned a assignments to
17 watch suicidal prisoners. Referring to the
18 period of time between February and April 2007,
19 on how many occasions were you assigned to
20 watch suicidal prisoners?

21 A. Again without the availability of
22 roll call in front of me, I don't know, but I
23 can definitely say that I was assigned -- we
24 don't have too many suicidal prisoners, but
25 when there was one and I was working, you know,

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2 I would be assigned to one.

3 Q. Would it be fair to say that it was
4 less than 5 times during February to April
5 2007?

6 A. Yes.

7 Q. Is it correct that a person who is
8 assigned to watch a suicidal prisoner must be a
9 sworn police officer?

10 A. That is incorrect.

11 Q. That is incorrect?

12 A. Yes.

13 Q. Could that person be a civilian?

14 A. Yes.

15 Q. During the period of time of
16 February to April of 2007, do you know whether
17 any other sworn police officers were assigned
18 to watch suicidal prisoners besides you?

19 A. I do not know who else, but that is
20 usually given to a civilian member of service
21 or a junior police officer.

22 Q. For the whole year 2007, do you
23 know whether or not any police officer other
24 than you was assigned to watch a suicidal
25 prisoner?

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2 A. No, I don't know who else was.

3 Q. You had mentioned an assignment to
4 a foot post in the snow, am I correct?

5 A. Yes.

6 Q. Did that occur between February and
7 April of '07?

8 A. I believe so. I could refresh my
9 memory again by looking at the complaint.

10 Q. What you like to look at what has
11 been marked Defendant's Exhibit BB again?

12 A. Sure. Okay.

13 Q. Does that refresh your
14 recollection?

15 A. Yes.

16 Q. Can you tell me when that
17 assignment to the foot post in the snow
18 occurred?

19 A. March 7th, 2008. Correction, March
20 7, 2007. We're in 2008 now.

21 Q. Do you recall who assigned you to
22 that foot post?

23 A. Yes.

24 Q. Who was that?

25 A. Lieutenant Debara.

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2 Q. Do you recall on how many occasions
3 during the period of February to April 2007
4 that he assigned you to a foot post in the
5 snow?

6 A. No.

7 Q. Was it more than once?

8 A. I don't know. I can't -- I don't
9 presently recall.

10 Q. Do you recall what is the basis for
11 your recollection that it was snowing on March
12 7, 2007?

13 A. When I came in, there was snow on
14 the ground that day, and I had documented that
15 day in my memo book.

16 Q. Is it your understanding that he
17 should not have assigned you to that foot post?

18 A. Yes.

19 Q. What is the basis for your belief
20 that he should not have assigned you to that
21 foot post?

22 MS. NICAJ: Objection. You can
23 answer.

24 A. The comment that he made that day
25 and in conjunction of the fact that there was

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2 numerous junior officers working, and that is
3 again past practice and customary that a junior
4 police officers or officers that are being
5 placed -- that are being punished to have a
6 foot patrol assignment, and on that day, he had
7 made a specific comment along with putting me
8 on the foot post in the snow along with junior
9 officers working, that is the basis of my claim
10 that it was based solely on my heritage.

11 Q. Can you tell me in words or
12 substance what that comment was?

13 A. Sure. Because we can, we can put
14 you anywhere, Bin Laden.

15 Q. Did you respond to that comment?

16 A. I was shocked, just shocked, and I
17 then asked the desk officer why I was being put
18 on the foot post in the snow, desk officer
19 Sergeant Morrell.

20 Q. Did anyone ever give you an
21 explanation as to why you got that assignment?

22 A. Lieutenant Debara stated that he
23 could put me anywhere he wanted followed by Bin
24 Laden and as well as -- correction, Sergeant
25 Morrell, the serving desk officer at that time

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2 stated that, although I was a talented police
3 officer, that I was not above scrutiny, to go
4 out and take the foot post in the snow, bundle
5 up, that it was very cold that day.

6 Q. Do you know whether or not
7 Lieutenant Debara was aware of the fact that
8 you were a person of Iraqi descent?

9 A. Yes.

10 Q. What is the basis for you -- what
11 is the answer, was he aware of it?

12 A. Yes.

13 Q. What is the basis of your belief
14 that he was aware of it?

15 A. Many conversations that we had, he
16 asked what your background was and I told him.

17 Q. When did those conversations occur?

18 A. On the meets that we would have,
19 which was basically, when the supervisor
20 would -- is supposed to inspect the memo book,
21 we would have conversations about -- different
22 conversations, and one of them was he asked
23 what background I was from. He asked, I told
24 him. I also have to state that day that he
25 made that comment as well as Sergeant Morrell

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2 had caused me tremendous anxiety and stress
3 that I had gone home sick, and subsequently,
4 Sergeant Morrell had come down the hall and
5 said that -- and laughed and said that he was
6 just joking, I didn't have to take a foot post
7 in the snow that day, utilize a car, I could
8 utilize a car; however, the events were so
9 stressful, that caused me to be very anxious
10 that I couldn't continue my tour of duty.

11 Q. The events were so stressful you
12 couldn't continue your tour of duty, is this on
13 March 7th?

14 A. That is correct.

15 Q. So, am I correct that you never
16 actually went on that foot post?

17 A. No. After being told by Lieutenant
18 Debara those racial remarks and then being told
19 again by Sergeant Morrell that I wasn't above
20 scrutiny, to bundle up in a sarcastic voice, it
21 would be unfair for me to go out and complete
22 my tour of duty which was the cause of
23 tremendous anxiety and stress.

24 Q. What was there about being told
25 that you are not above scrutiny that was so

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2 stressful?

3 MS. NICAJ: Objection. You can
4 answer.

5 A. I told him what Lieutenant Debara
6 had said and asked him why I was being placed
7 on a foot assignment in the snow. It wasn't
8 just that comment. It was the comment of
9 Lieutenant Debara had said what I testified to
10 earlier along with the comment of, you know,
11 although the most talented -- acknowledging
12 that I am talented and that, you know, I am not
13 above scrutiny -- I don't know if those were
14 his words verbatim -- to bundle up and take a
15 foot post in the snow, and then I was walking
16 to take the foot post in the snow, and he ran
17 down the hall to tell me he was just joking, it
18 was -- I mean I don't know if you have been
19 called derogatory names and systemically been
20 discriminated based on your heritage, but it is
21 tremendous stress and anxiety, causes me
22 anyhow.

23 Q. You were socially friendly with
24 Sergeant Morrell, weren't you?

25 A. Absolutely not.

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2 Q. Did you attend class with him at
3 Iona?

4 A. I attended maybe one to 2 classes
5 with him Iona.

6 Q. Did you ever go to restaurants with
7 him?

8 A. No.

9 Q. Did you ever work together in any
10 school projects with him?

11 A. Perhaps for maybe one of my
12 classes. I don't think -- no, not together.
13 But we had classes together. No, never worked
14 on a project together with him.

15 Q. Did you ever do homework together?

16 A. No.

17 Q. Did you ever discuss his religion
18 with him?

19 A. His?

20 Q. Yes.

21 A. No.

22 Q. Did you ever discuss your religion
23 with him?

24 A. I don't presently recall.

25 Q. Do you know whether or not Sergeant

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2 Morrell is a Muslim?

3 A. No, I do not.

4 Q. Is it correct that Sergeant Morrell
5 told you that you could cover this foot post in
6 a car?

7 A. No.

8 Q. Did anyone tell you, you could
9 cover that foot post in a car?

10 A. That does not make any type of
11 sense to cover a foot post in a car. A foot
12 post would mean you are walking.

13 Q. When Sergeant Morrell apologized
14 for his comment, did he discuss with you
15 whether or not it was necessary for you to
16 actually walk that foot post?

17 A. I believe the chain of events,
18 after I told him that I was going home sick due
19 to the anxiety and stress, that he had said
20 that I was able to -- that he was joking, that
21 I was able to take a car to work that day, not
22 the foot post assignment, I no longer had to
23 work it.

24 Q. So --

25 A. That was after the fact I told him

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2 I was going home.

3 Q. So am I correct that the chronology
4 was you told him you were going to go home
5 sick, and he told you that it was not necessary
6 for you to walk the foot post, is that
7 accurate?

8 A. No, it's not.

9 Q. Explain to me what the chronology
10 was.

11 A. The chronology was there was roll
12 call on March 7, '07, by Lieutenant Debara
13 where he assigned me to the foot post in the
14 snow. Subsequent after that, he made a comment
15 to me, when I questioned why I was being put on
16 a foot post in the snow, he said because we
17 can, we could put you anywhere, Bin Laden.
18 After that, I had spoken to the desk officer
19 and asked him why I was being put on the foot
20 post in the snow when there was available
21 probationary junior officers working, and his
22 response is what I testified to earlier that I
23 was not above scrutiny, although I was one of
24 the most talented officers, you know, to go
25 outside and take the foot post in the snow, to

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2 bundle up, it's really cold. And then at that
3 point, I told him I was going to go home
4 sick -- that is the chronology -- due to the
5 anxiety and stress, and at that point, after I
6 told him I was going to go home sick, is when
7 he had told me that I did not -- it was a
8 joke -- I did not have to take the foot post in
9 the snow. I could use a car for the day.

10 Q. And after he told you that you
11 could use the car, did you electric to work
12 that tour or did you go home sick?

13 A. I went home sick. Like I said, it
14 would be impossible for me to work that tour
15 due to the chain of events immediately prior to
16 that.

17 Q. At the time that you received that
18 assignment, were other people present?

19 A. Yes.

20 Q. Who was present?

21 A. When the assignment was initially
22 given, it was given at roll call by Debara,
23 whoever the police officers were at roll call
24 that day, and at the desk, whoever the civilian
25 members or police officers that were getting

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2 equipment at the time were present as well.

3 Q. Do you recall specifically anyone
4 who was present?

5 A. Whoever was on the roll call that
6 day was present. I don't have the roll call in
7 front of me.

8 Q. Can you approximate the number of
9 people present?

10 A. No. It would be unfair for me to
11 guess.

12 Q. In reference to the hospital post
13 that we discussed earlier, was anyone else
14 present at the time you received the hospital
15 post?

16 A. On the March 7th hospital post?

17 Q. Correct. Actually I'm not sure
18 that the hospital post was the March 7th.

19 A. The snow.

20 Q. Whenever you got the hospital post,
21 was assignment, was anyone else present?

22 A. Obviously when they give you the
23 assignment at roll call and the officer that
24 would have to or that takes me to the hospital
25 post, and the officer that I would relieve for

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2 the hospital post and the officer that would
3 relieve me for the hospital post.

4 Q. Was it your belief that some police
5 officer other than you should have been
6 assigned to that foot post on March 7th?

7 MS. NICAJ: Objection. You can
8 answer.

9 A. Like I testified to earlier,
10 Mr. Meisels, I stated that foot posts are
11 primarily given to junior officers. We can go
12 back as far as 6 years of roll calls where
13 officers are being placed on punishment for one
14 reason or another. They are not reserved for
15 officers that are productive or not on
16 punishment or not junior. That has been the
17 past practice of this department.

18 Q. Other than the assignment that you
19 already testified to, did Lieutenant Debara
20 either directly or indirectly participate in
21 assignments that you think were inappropriate?

22 A. Yes.

23 Q. Could you explain what they were?

24 A. The assignments that I testified to
25 earlier of being a civilian dispatcher, of

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2 watching suicidal prisoners, of doing the jail
3 escorts, you know, traffic post, direct
4 traffic. I memorialized that as well in
5 writing to I believe Lieutenant Fortunato and
6 possibly the Police Commissioner Carroll.
7 There was an instance that I remember very
8 clearly with Lieutenant Debara that, while I
9 was to work in the radio room, I was to -- he
10 said this in front of several civilian members
11 of service, and I can tell you their names now,
12 that if I even needed a paper clip or a pen,
13 that there was an imaginary line in the
14 communications room not to go forward so no
15 members of the public would see me. There is
16 another incident that I was asked to assist on
17 an immigration warrant by Lieutenant Debara --
18 correction -- by Sergeant Austin who is a desk
19 officer, and Lieutenant Debara saw me at the
20 front desk giving information to the
21 immigration officer, and basically had
22 reprimanded me for being at the front desk and
23 told me didn't I tell you not to be at the
24 front window, I don't want anyone to see you.
25 He actively did participate in that, and the

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2 civilian members that I clearly remember
3 because he said this on more than one occasion
4 that were present, in reference to the
5 imaginary line, do not cross that, were CSO
6 Madden, CSO Sheehy, CSO Cruz, CSO Brown, CSO
7 Holder. Those are the CSO's that I clearly
8 member. He said that on more than one
9 occasion, and also he had told me that I cannot
10 take a police vehicle for under these
11 circumstances, not for lunch, not at all, not
12 to, when I walk out of the building, not to
13 walk through the front, because that would mean
14 members of the public would see me, to walk
15 through the back. That is some of the
16 instances that come to mind right now.

17 Q. Do you know whether or not
18 Lieutenant Debara discussed these various
19 assignments with any other members of the
20 department?

21 A. Yes.

22 Q. With whom did he discuss them?

23 A. With the first line of supervision
24 Sergeant Morrell, Sergeant Brady, Sergeant
25 Wilson, Sergeant Austin. There was a memo put

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2 out by Captain Gazzola, stating -- via e-mail
3 stating that I was to perform the limited
4 functions of dispatcher, jail escorts, suicidal
5 prisoners, and not to utilize any police
6 vehicles. So an e-mail was circulated to the
7 second tour of supervision, and they were made
8 aware of that, and I do remember generating a
9 intradepartmental communication basically
10 stating that obviously is egregious and unfair,
11 and I am being punished again solely based on
12 my heritage.

13 Q. That was a communication initiated
14 by you?

15 A. Initiated by me, correct, in
16 response to Captain Gazzola's directive.

17 Q. What is the basis for your belief
18 that Lieutenant Debara discussed the various
19 assignments that you've testified to with
20 Sergeant Morrell?

21 A. Well, I will make this easy for
22 you. Not just Sergeant Morrell, all of the
23 sergeants because I was specifically, when the
24 other sergeants, Sergeant Morrell, Sergeant
25 Wilson, Sergeant Brady were working, Sergeant

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2 Austin, I was working in the capacity of a
3 dispatcher or I was on the jail escort. I was
4 not working street anymore during that time.
5 So obviously the connection would be that they
6 were all advised, obviously, I think, as I told
7 you, via e-mail by Captain Gazzola and also
8 that they were the desk officers at various
9 times, and I was working in the capacity of
10 dispatcher or jail escort or watching a
11 suicidal prisoner. I was not working in the
12 capacity of a police officer in the field.

13 Q. Let's just go one at a time. In
14 reference to any communication that Lieutenant
15 Debara had with Sergeant Morrell, are you aware
16 of any communication regarding your assignments
17 other than the e-mail that you just mentioned?

18 A. They basically each and every
19 supervisor told me that my function would be
20 the function I spoke to, I am not to work the
21 front desk, I am not to be on the street, I am
22 not to utilize a police vehicle. I am to
23 dispatch only, and that goes with each and
24 every one of the sergeants.

25 Q. Let me go back to the question,

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2 though, of communications between Debara and
3 Morrell, are you aware of any communications
4 between Lieutenant Debara and Sergeant Morrell
5 regarding your assignments other than the
6 e-mail that you testified to already?

7 A. Well, when I asked him why, and I
8 asked each one of them why I was doing these,
9 as I -- obviously, when I had a peculiar
10 assignment, they had stated that directive came
11 from Captain Gazzola, and Lieutenant Debara
12 took the matter, and they had to abide by the
13 directive, and that was my assignment. That
14 could be well established by my assignments I
15 was working was limited to those functions.

16 Q. Well, during the period of time
17 from February to April of 2007, did you receive
18 any assignments that you thought were
19 appropriate?

20 A. I don't presently recall, but I do
21 know I received many assignments that were
22 inappropriate that I had basically either
23 through written communications or verbal
24 communication had addressed them. I think we
25 spoke about several of them right here today.

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2 Q. Is it correct that you got some,
3 during the period of time of February to April
4 of '07, you got some assignments that you
5 thought were inappropriate and you had some
6 assignments that were appropriate?

7 A. No. Again, when I was talking
8 about -- I think you are cleverly trying to
9 mince my words -- I think we were talking about
10 the directive that was initiated by Captain
11 Gazzola to the sergeants I just mentioned. I
12 every day on a daily basis during -- I don't
13 know the period of time that was -- and I'm not
14 testifying that it was in the time that you
15 just stated, but I was serving in the capacity
16 as a civilian dispatcher or doing a jail escort
17 or watching a suicidal prisoner, banned from
18 using police vehicles, that is what I'm
19 testifying to and that was inappropriate. And
20 I had made verbal and written communications
21 affirming that. I don't recall presently if
22 the period of time was during the time you just
23 stated February to March, I don't recall, but I
24 know there were assignments that were
25 inappropriate that were just stated a few

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2 A. I don't presently recall if I
3 retained a copy of it or but I do remember
4 seeing it.

5 Q. You read it?

6 A. Yes.

7 Q. Other than what you already
8 testified to, do you remember anything else
9 that was in it?

10 A. No.

11 Q. In reference to Sergeant Wilson, do
12 you have any basis to believe that Lieutenant
13 Debara ever discussed your assignments with
14 Sergeant Wilson?

15 A. Yes.

16 Q. What is the basis for your belief?

17 A. Sergeant Wilson told me as well as
18 making inquiry to him while he was working as a
19 desk officer. I do not remember the dates and
20 times, but it was after the assignment was
21 given when he was on the desk.

22 Q. Do you know which assignment that
23 referred to?

24 A. I basically talked about all of the
25 assignments. And he had told me the

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2 assignments that I was capable of carrying out
3 which were, as I stated earlier, in Captain
4 Gazzola's e-mail and was told to me by
5 Lieutenant Debara as well as what Lieutenant
6 Debara had told them. I was not present, but
7 that is what they told me.

8 Q. Other than the e-mail that you
9 described, do you have any reason to believe
10 that Lieutenant Debara discussed your
11 assignments with Sergeant Wilson?

12 A. Yes. I just testified 30 seconds
13 ago conversations I had with Sergeant Wilson
14 telling me that these are the specific
15 functions I must do and also the fact that he
16 told me that there was an e-mail that was
17 generated.

18 Q. Am I correct --

19 A. Besides --

20 Q. -- that your understanding was that
21 that was based upon the e-mail?

22 A. And also conversations I had with
23 him, not including the e-mail, numerous
24 conversations I had with him.

25 Q. When you say him, who do you mean?

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2 A. Sergeant Wilson. That is who we're
3 talking about, right?

4 Q. Correct.

5 A. Correct.

6 Q. So, am I correct that based upon
7 your conversations with Sergeant Wilson, you
8 concluded that he had communicated with
9 Lieutenant Debara based upon that e-mail?

10 MS. NICAJ: Objection. You can
11 answer.

12 A. No.

13 Q. It's not correct?

14 A. No. That is not what I'm saying,
15 that is not what I'm testifying to. I made it
16 clear. We had numerous conversations, Sergeant
17 Wilson and I to what my tasks were to be, that
18 he was -- that besides the e-mail, that he was
19 told what my assignments, what they were going
20 to be by the Lieutenant Debara, and I stated
21 that it was unfair, and it was -- it was
22 another example of being singled out.

23 Q. Other than the e-mail, can you
24 identify any other communication between
25 Lieutenant Debara and Sergeant Wilson

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2 concerning your assignments?

3 A. What Sergeant Wilson had told me
4 that Lieutenant Debara had said that my
5 assignments must be.

6 Q. What did Sergeant Wilson tell you
7 that he claimed that Lieutenant Debara said
8 your assignments must be?

9 A. He didn't claim. He stated that is
10 what my assignments must be, and that is the
11 same assignments that I testified to with
12 Sergeant Morrell which was dispatcher, watching
13 suicidal prisoners, jail escorts, forbidden to
14 use police vehicles, forbidden to direct the
15 public and work the front window. My
16 assignment in the radio room must be specific
17 to dispatching only.

18 Q. And what period of time was
19 referenced in those discussions with Sergeant
20 Wilson?

21 A. I don't remember the period, but as
22 I testified to earlier, prior to the EOC
23 filing.

24 Q. Officer Alali, is it your
25 understanding that Sergeant Austin ever

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2 federal actions, and if there was another
3 matter that could be grieved by the PBA such as
4 half a sick day, they would obviously do so.

5 Q. Did you ever discuss these
6 assignments with someone from the PBA before
7 you filed the EOC charge?

8 A. I have been subject to a systemic
9 pattern of bigotry and hatred since I started
10 this department, and whoever was the PBA
11 president at the time or we had the same PBA
12 attorney Thomas Troetti.

13 MS. NICAJ: I am going to caution
14 you, whatever communications you may
15 have had with the PBA attorney are
16 confidential communications, and I am
17 instructing you not to disclose any of
18 that.

19 A. I have been advised basically every
20 step of the way through my journey in the New
21 Rochelle Police Department.

22 Q. Did you discuss with Edward Hayes
23 the assignments with which you were unhappy
24 before you filed the EEOC charge?

25 A. Yes. I have discussed it and he

1 A. Alali

2 has seen the intradepartmental communications
3 detailing that.

4 Q. Aside from the PBA attorney --

5 A. I am talking about Edward Hayes,
6 not --

7 Q. In addition to Edward Hayes, but
8 not including counsel, did you discuss it with
9 anyone else from the PBA?

10 A. There was one instance prior to my
11 suspension, Edward Hayes was out of town in Las
12 Vegas, and I had a PBA representative Edward
13 Martinez present. I handed a letter to
14 Commissioner Carroll stating on going
15 harassment and bigotry. After receiving that
16 letter, he called me back in with the PBA
17 president Edward Hayes present and then
18 suspended me subsequently for 30 days. So that
19 is one instance that Edward Hayes was not
20 present due to the fact he was, you know, out
21 of the state. I had another representative,
22 the next representative available, in that case
23 it was Edward Martinez.

24 Q. Prior to filing your EEOC charge,
25 on how many occasions did you speak with Edward

1. A. Alali

2 Hayes about the assignments that you thought
3 were inappropriate?

4 A. What assignment -- all assignments
5 that I know of that were inappropriate?

6 Q. Correct.

7 A. Many, many, many times, countless.

8 Q. When you say countless, do you mean
9 more than 10?

10 A. Yes.

11 Q. More than 20?

12 A. Probably, yes.

13 Q. More than 30?

14 A. It could be more than 50.

15 Q. Do you recall the substance of any
16 one of these conversations that you had with
17 Mr. Hayes?

18 A. Prior to the EOC?

19 Q. Yes. Correct.

20 A. Basically the assignments, numerous
21 conversations with Edward Hayes with the
22 directive Captain Gazzola assigning me to the
23 functions of civilian dispatcher, no
24 interaction with the public, not being able to
25 use a police vehicle, watching suicidal

1 A. Alali
2 prisoners, being also limited to doing jail
3 escorts only, I discussed that with him. I
4 think he has -- I know we have sat down and had
5 conversations with Captain Gazzola regarding
6 this and I believe he has had numerous
7 conversations on his own and that is prior to
8 the EOC.

9 Q. Prior to the EOC charge, at any
10 time, did Mr. Hayes give you some advice as to
11 what he thought you should do about your
12 concerns?

13 A. Yes.

14 Q. What did he tell you?

15 A. He told me the fact of, you know,
16 that if there was a grievable matter, that they
17 would be able to grieve it, to document the
18 incidents, and basically also made a referral
19 to Tom Troetti, the PBA attorney.

20 Q. Did he give you any other advice
21 other than what you just testifies to?

22 A. Nothing that I presently recall.

23 Q. Did he offer you any advice as to
24 whether or not your concerns were grievable?

25 A. I think I don't really presently

1 A. Alali

2 doing.

3 Q. At the time that you were assigned
4 to that camera car, do you know whether or not
5 the police department had other camera cars?

6 A. As I stated to you, they had the
7 cars in the traffic division that were a
8 antiquated camera system that were not
9 operational, that were based upon a VHS system
10 completely different from my system, and as I
11 stated, that was known beforehand that the
12 officer that is in the traffic division was to
13 be using a camera car. The car that I was
14 using was especially fitted just for me and no
15 other officer. Did any other officers utilize
16 that car, perhaps, but I was the first one to
17 use it, and when I was working, no other
18 officer was authorized to use that car except
19 for me.

20 Q. Do you know whether or not Sergeant
21 Wilson was aware that you had filed a first
22 lawsuit?

23 MS. NICAJ: Ever?

24 MR. MEISELS: Yes.

25 A. I mean I don't know if he initially

1 A. Alali

2 knew, but every one of the supervisor know that
3 the lawsuit has been filed.

4 Q. What is the basis for your belief
5 that they all knew that the first lawsuit was
6 filed?

7 A. Basically the whole department was
8 talking about it. There was talk in the radio
9 room and the locker room among all of the other
10 officers. I would classify New Rochelle as a
11 small precinct. It's not a large department.
12 Word travels very fast, and I think it's clear
13 that at some point in time, not only Sergeant
14 Wilson and the other people -- everyone knew
15 this lawsuit was filed.

16 Q. Now, did ever come a time that you
17 received an assignment from Sergeant Wilson
18 that you felt was inappropriate?

19 A. During -- I can't specifically
20 recall, but, if there was an assignment during
21 the time that he was a desk officer in the
22 radio room, and it was the assignment I was
23 given as a dispatcher or a county jail escort,
24 he did assign me to whatever needed to be done.
25 So, yes. I don't know the dates and times, but

1 A. Alali
2 clearly he did assign me to the county jail
3 prisoner escort, he assigned me to the foot
4 post, he assigned me to dispatching duties.
5 You know, he was the desk officer, and he is
6 also many, many times turned out the second
7 tour.

8 Q. Do you recall when you received
9 those assignments that you thought were
10 inappropriate?

11 A. When -- the question is --
12 MS. NICAJ: Objection. You can
13 answer.

14 A. I have received inappropriate
15 assignments the minute I walked through --
16 basically shortly after I walked through the
17 door of New Rochelle.

18 Q. Well, was Sergeant Wilson your
19 direct supervisor then?

20 A. Sergeant Wilson was my supervisor
21 when I was working on the second tour.

22 Also Sergeant Wilson and I were --
23 I would like the record to reflect that we were
24 patrolmen together on the first tour which is
25 midnights. He was sector one, and I would

1 A. Alali
2 float around whatever assignment they would
3 give me and would tell me basically, you know,
4 be careful, they are haunting you.
5 Subsequently he became the supervisor on the
6 second tour, and, you know, had to be my
7 immediate supervisor and, you know, give my
8 evaluations and gave me the punitive
9 assignments.

10 Q. When you say that he gave you the
11 punitive assignments, what was that punishment
12 for?

13 A. It was for no legitimate reason.
14 It was the punitive assignments, as I stated,
15 were various, were foot posts in the snow to
16 foot posts when the junior officers were
17 working, to jail escorts, to do the prisoner
18 escorts and that was on a consistent basis. I
19 was barred from doing normal police functions
20 that was working outside the street. The only
21 time that I would see the street was when I was
22 doing the jail escorts.

23 Q. You characterize the assignments as
24 being punitive, is that correct?

25 A. That is correct.

1 A. Alali

2 Q. What was your understanding as to
3 what the punishment was for, why were you being
4 punished?

5 A. There was no clear reason given to
6 me. Probably what I encountered through my
7 whole time here was based on my heritage.

8 Q. That is just a possibility?

9 MS. NICAJ: Objection.

10 A. No. That is fact. When you are
11 top producer and you are constantly going out
12 there and working, and there are people that
13 aren't and are given choice assignments and you
14 are consistently being fictitiously rated as
15 below standards and standing on a foot post in
16 a midnight tour in the snow, and you are out
17 there producing, I would say there is something
18 abnormal about that. What would you say,
19 Mr. Meisels?

20 Q. From that circumstance, you would
21 conclude am I correct, that the reason that
22 this happened is because you of your heritage?

23 MS. NICAJ: Objection.

24 A. Absolutely. It wasn't because of
25 my productivity or my abilities or my

1 A. Alali

2 experience or any of that.

3 Q. Did you ever take issue with any
4 performance evaluations that you had got from
5 Sergeant Wilson?

6 A. I believe so.

7 Q. I'm going to show you what has been
8 premarked as Exhibit R and ask you if you can
9 identify what has been marked Defendant's
10 Exhibit R, can identify that document?

11 A. This is a performance appraisal
12 authorized by Sergeant Wilson, an appraisal
13 that I strongly disagree with, and I have given
14 a written rebuttal to the reasons why I
15 disagreed with this performance evaluation.

16 Q. If you look --

17 A. I would like to add this is maybe
18 one of at least -- he has evaluated me more
19 than this occasion. This is just one of the
20 several times he has evaluated me.

21 Q. Could you turn to the second page
22 of the exhibit?

23 A. Sure.

24 Q. Now, in reference to the first full
25 paragraph on the top of the page where it says

1 A. Alali
2 during the rating period, officer Alali
3 received 8 civilian complaints. Was that true?
4 A. I have no way to verify that. Um,
5 I don't know, I don't know the exact number. I
6 know that I, during the rating period, I had
7 received civilian complaints. There is know
8 way for me to know there were 8.

9 Q. The next sentence says of the
10 complaints filed, 3 were for abuse of
11 authority. Do you know if that is true?

12 A. No, I would not know if that is
13 true. I do know that almost every complaint
14 that I received in New Rochelle, the complaints
15 had been unsubstantiated, so I wouldn't know.

16 Q. And skip the next line, go to the
17 next line where it says 2 complaints were for
18 discourtesy. Do you know if that is true?

19 A. No.

20 Q. The next sentence both were
21 unsubstantiated but you received counseling for
22 one incident. Is that true?

23 A. I don't know. I can't -- I can't
24 remember what kind of counseling it was.

25 Q. Next sentence, he received 2

1 A. Alali
2 complaints for reckless driving. Do you know
3 if that was true?

4 A. No.

5 Q. The next sentence one complaint is
6 pending charges and the other is
7 unsubstantiated with officer Alali receiving
8 counseling. Do you know if that is true?

9 A. No. Why I know it's not true is
10 there is a lot of fabrications that I was
11 recommended for department discipline 2 times
12 which I never received during the rating
13 period. A lot of the complaints would come in;
14 I don't know about every complaint that comes
15 in, if they are actually a legitimate complaint
16 are not legitimate. There are a lot of
17 fabrications in here such as states on the
18 first page I received 2 departmental complaints
19 for leaving my post on 2 occasions. I did not
20 receive any of them during this rating period.
21 I wrote a detailed memorandum stating that, you
22 know, stating that I was -- the purpose of
23 department discipline is to correct or modify
24 behavior, that I should be given that, and it
25 was never given to me. So there are a lot of

1 A. Alali

2 things in here that I did do a detailed
3 rebuttal to this outlining it. So there is a
4 lot of inconsistencies here.

5 Q. Officer Alali also received a
6 complaint for excessive force. Do you know if
7 that was true or not?

8 A. No. I don't know if that is true.
9 I don't know if the complaint is pending. I
10 don't know the outcome.

11 Q. I'm going to show you what has been
12 premarked as Defendant's Exhibit T for
13 identification and ask you if you can identify
14 that?

15 A. It's a communication from Captain
16 Gazzola to myself.

17 Q. Do you recall receiving this?

18 A. Yes.

19 Q. Looking at the last sentence,
20 according to Lieutenant Fortunato, you received
21 7 civilian complaints, not 8 as documented in
22 the evaluation. Do you know whether that is
23 true?

24 A. No.

25 Q. I'm going to show you what has been

1 A. Alali

2 Q. How many occasions did you discuss
3 the below standard evaluations with Mr. Hayes?

4 A. When I received them, I would
5 discuss them with him every time I received the
6 below standard evaluation.

7 Q. Do you recall how many such
8 discussions you had with him?

9 A. However many below standard
10 evaluations there were.

11 Q. Every time you got a below standard
12 evaluation, you discussed it with him?

13 A. Fictitious below standard
14 evaluations, yes.

15 Q. How about the circumstances when
16 they weren't fictitious?

17 MS. NICAJ: Objection. You can
18 answer.

19 A. When a performance evaluation was
20 appropriate, and it wasn't full of, as we
21 looked at the performance evaluation with
22 Sergeant Wilson was filled with fabrications,
23 obviously, if it was a truthful performance
24 evaluation, I would not object to it. If it's
25 truthful, obviously I would object to it.

1 A. Alali

2 Q. When you spoke to Mr. Hayes about
3 some of these evaluations, can you tell me in
4 words or substance what you said to him and
5 what he said to you?

6 A. He clearly saw the same issues that
7 I saw with these performance evaluations. He
8 instructed me on the departmental guidelines on
9 how to request a review of the evaluation and
10 upon his direction, I did so.

11 Q. Was Lieutenant Marshall ever your
12 indirect supervisor?

13 A. Yes.

14 Q. When was that?

15 A. Since I started with the New
16 Rochelle Police Department, he was the rank of
17 sergeant.

18 Q. Do you know whether or not he was
19 ever aware that you had filed an EEOC charge?

20 A. I don't presently recall.

21 Q. Do you know whether or not he was
22 ever aware that you filed your first lawsuit?

23 A. I don't presently recall.

24 Q. Do you know whether or not he
25 participated in any decision relating to any of

1 A. Alali
2 the assignments that you testified to that you
3 thought were inappropriate?

4 A. Lieutenant Marshall changed from
5 being my indirect supervisor to I believe my
6 direct supervisor, and he became executive
7 officer for patrol. He was there I don't know
8 for assistance or as a witness to Captain
9 Gazzola during numerous rebuttal of performance
10 evaluations, and I believe he was aware as well
11 of the assignment that was given to me
12 regarding the prisoner transports, civilian
13 dispatcher and on and so forth, and I can look
14 at the federal complaint as well, that would
15 refresh my memory specifically as to the
16 instances that he was aware of, certain
17 patterns of misconduct, and may I look at
18 federal complaint, please?

19 Q. Actually your attorney is entitled
20 to ask questions after I am finished, and if
21 she wants to discuss the complaint with you,
22 I'm going to let her do it.

23 MS. NICAJ: For the record, you
24 want the complaint to refresh your
25 memory as to Mr. Meisels's line of

1 A. Alali

2 questioning?

3 A. It would help me tremendously.

4 MS. NICAJ: Okay. You made your
5 record known. So if he does not want to
6 follow up with anything concerning the
7 complaint, it's his avenue.

8 MR. MEISELS: Your attorney can ask
9 questions when --

10 MS. NICAJ: Why would I if he
11 solicited you to show him the complaint
12 and you are not doing so?

13 MR. MEISELS: Your state of mind is
14 not an issue. Whatever you decide to do
15 is your business.

16 MS. NICAJ: It's your state of
17 mind, because obviously you don't want
18 his memory refreshed. So, therefore,
19 you are trying to pin him down
20 without -- he clearly told you that he
21 needs his memory refreshed and showing
22 the complaint would help him do so, and
23 for me to do it at the conclusion of the
24 deposition given the context of your
25 questioning now is unfair, and you know

1 A. Alali

2 it.

3 MR. MEISELS: Do you have any other
4 concerns you want to put on the record?

5 MS. NICAJ: No. That is it.

6 Q. Other than what you've testified to
7 already, do you know of any role that
8 Lieutenant Marshall played in deciding what
9 your assignment should be?

10 A. As I stated earlier, if I could
11 look at the federal complaint that we're here
12 on today, that would help me refresh my memory.
13 Short of that, I am not going to presently
14 recall, but I am sure I will be able to recall
15 it at another time when I can look at the
16 complaint.

17 Q. I am going show you what has been
18 premarked as Defendant's Exhibit A for
19 identification and ask you if you can identify
20 that document?

21 MS. NICAJ: You said A, right?

22 MR. MEISELS: A.

23 A. The tuition bill generated by Iona
24 College.

25 Q. Do you recall ever seeing that

1 A. Alali

2 document before?

3 A. Yes, sent to my house.

4 Q. Do you recall when you received it?

5 A. No. I received so many bills from
6 Iona. I just received one yesterday, as a
7 matter of fact. So I don't remember this
8 particular bill.

9 Q. And am I correct that you have from
10 time to time applied for tuition reimbursement
11 from the police department?

12 A. Every time I attended classes, I
13 applied for tuition reimbursement.

14 Q. What is your understanding as to
15 your entitlement as to tuition reimbursement?

16 A. That officers will be reimbursed
17 based upon a number that is allocated and be
18 dispersed evenly, and that is my understanding.

19 Q. When you say dispersed evenly, what
20 is your understanding of evenly? Is it same
21 exact number of dollars or is it a percentage
22 or some other methodology?

23 A. I would think that the evenly would
24 mean, if I took 5 classes and you took 5
25 classes, we would get -- the moneys would be

1 A. Alali

2 distributed evenly between me and you. That is
3 my definition of evenly.

4 Q. Is this reimbursement program
5 provided for in the PBA contract?

6 A. Yes.

7 Q. And have you ever discussed with
8 someone from the PBA other than PBA counsel as
9 to what your entitlement was of the tuition
10 reimbursement?

11 A. As I testified to earlier, with PBA
12 president Edward Hayes, he has claimed that he
13 has an issue with Deputy Commissioner Murphy
14 regarding tuition reimbursement. He wants to
15 see how it's allocated, and other than that,
16 no. I mean we basically submit the bills and
17 the Deputy Commissioner would state what is
18 owed, if any, at times depending on how many
19 students went to college at the time.

20 Q. Is the reimbursement done in a form
21 of a check to Iona or is it in a form of a
22 check to you?

23 A. Well, it used to be in a form of a
24 check to Iona. Presently that has changed and
25 has been modified to a check to the member. So

1 A. Alali

2 the first time I just received a check. All of
3 the other previous times, I have not received a
4 check and I believe it was sent to Iona
5 College.

6 Q. Now, I am going to show you what
7 was premarked as Defendant's Exhibit B for
8 identification and ask you if you can identify
9 that document?

10 A. It's standard language used in
11 intradepartmental communication when you are
12 requesting to enroll in a college, and
13 basically it's the state of language that is
14 used for every time you attend school.

15 Q. Referring to this particular
16 memorandum, is that from you to the
17 Commissioner?

18 A. Yes.

19 Q. It's dated November 11, 2005.

20 A. Yes.

21 Q. Going to the second paragraph of
22 the memo, it says please be advised as per the
23 union contract for the City of New Rochelle
24 part or all of the fees and tuition will be
25 paid by the New Rochelle Police Department for

1 A. Alali
2 courses successfully completed. So am I
3 correct that you made this request pursuant to
4 the contract?

5 A. That is right.

6 Q. And at the time you made the
7 request, it was your understanding that part or
8 all of the fees would be paid?

9 A. That is correct.

10 Q. But only in connection with courses
11 that were successfully completed?

12 A. Which everyone of mine were, yes.

13 Q. Am I correct that before any
14 reimbursement check would be written, the
15 courses would have had to be completed?

16 A. Basically, to my understanding,
17 that there was an agreement between the college
18 and the department that the officer would
19 enroll and payment would be deferred to the
20 completion or the end of whatever the budgeting
21 was. It was not demanded at the time of
22 enrollment.

23 Q. Payment would come after the
24 courses were taken?

25 A. Correct.

1 A. Alali

2 Q. And the payment could be part or
3 all of the amount of tuition that was paid?

4 A. Correct.

5 Q. It could be part?

6 A. Correct.

7 Q. And is it your understanding that
8 Commissioner Carroll approved your
9 participation in the program back in November
10 of 2005?

11 A. Yes.

12 Q. Was that for the winter trimester
13 of 2005?

14 A. Yes.

15 Q. Can you explain what, as you
16 understand it, what do understand the term
17 trimester to mean?

18 A. Trimester is a program that Iona
19 College has. Basically what it states try, 3
20 times a year, and so you go 3 times a year as
21 opposed to twice a year.

22 Q. Does that mean that the year is
23 divided into 3 parts of 4 months each or?

24 A. Honestly I don't know how budgeting
25 is done. I just know that you are able to go

1 A. Alali

2 full time, being it's broken down for 3 times a
3 year, you are able to complete the full time
4 curriculum.

5 Q. I'm going to show you what is
6 premarked Defendant's Exhibit C and ask you if
7 you can identify that document.

8 A. Yes.

9 Q. What is it?

10 A. It's a letter authored by Deputy
11 Commission Murphy to Iona admission stating
12 that I will be enrolled for winter 2005
13 trimester.

14 Q. I am going to show you what has
15 been premarked as Defendant's Exhibit D for
16 identification and ask if you can identify that
17 document?

18 A. It's a letter from me -- I am
19 sorry -- from me, yes, to Commissioner Carroll
20 regarding tuition reimbursement.

21 Q. Was this for the 2005 fall
22 trimester?

23 A. Again, I am very confused on when
24 it's paid. It could have been -- it says fall
25 on here. This would be fall. Completed, yes.

EXHIBIT 30

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ARAZ ALALI,

PLAINTIFF,

-against-

Case No:
07 CIV. 1916

ALBERTO DeBARA, Individually, KYLE WILSON,
Individually, EDWARD AUSTIN, Individually,
GEORGE MARSHALL, Individually, HUMBERTO
MORRELL, Individually, MATTHEW BRADY,
Individually, ANTHONY MURPHY, Individually,
PATRICK J. CARROLL, Individually and the
CITY OF NEW ROCHELLE, NEW YORK,

DEFENDANTS.

-----X

DATE: April 4, 2008

TIME: 11:15 A.M

CONTINUED EXAMINATION BEFORE

TRIAL of the Plaintiff, taken by the
Defendants, pursuant to a Court Order and
to the Federal Rules of Civil Procedure,
held at the offices of Wilson, Elser,
Moskowitz, Edelman & Dicker, LLP, 3 Gannett
Drive, White Plains, New York 10604, before
Veronica R. Harris, a Notary Public of the
State of New York.

1 A. ALALI

2 reimbursement of 2005 stating that
3 \$2,751.40 will be reimbursed back to me.

4 Q. Was it reimbursed?

5 A. Not to me, perhaps to Iona.
6 I'm not sure.

7 Q. Did you ever make any inquire
8 about it?

9 A. I know that my current status
10 with the college is that they reported it
11 to the credit agency that I am in
12 collection. I also know that in 2006 the
13 tuition that was -- that actually there was
14 no tuition initially reimbursed to me.

15 There was a filing of the EEOC
16 and then the first Federal complaint on
17 February 21, 2007, and prior to that Police
18 Commissioner, Deputy Police Commissioner
19 Anthony Murphy had numerous conversations
20 with PBA President Edward Hayes stated that
21 he is not going to pay my tuition period.

22 After the EOC filing Deputy
23 Commissioner Murphy, called via cell phone
24 to my residence which was at 703 Pelham
25 Road Unit 514 in New Rochelle, stating that

1 A. ALALI

2 he would pay the tuition, however he needs
3 my grades. The grades were already
4 submitted to him.

5 Upon, you know, I was -- I was
6 on the Dean's list there and always
7 submitted my grades and permission to go to
8 college. He had then subsequently called
9 myself and PBA President, Edward Hayes and
10 had a detail conversation to both of us
11 stating that he is going to pay my 2006
12 tuition. However, PBA President Hayes will
13 not be happy with the figure he was going
14 to give because it was going to allot me
15 more money than the other members. They
16 figured that -- the amount that was
17 submitted for 2006 it was approximately
18 \$10,000, roughly.

19 He then stated that he was
20 going to pay me an excess of the other
21 members, which is approximately \$5,700.
22 Police officers Craig Wolf also submitted
23 approximately \$10,000 in tuition.
24 Approximately an \$80.00 difference between
25 myself and Police Officer Wolf. However,

1 A. ALALI

2 Police Officer Wolf had received \$2,000
3 more in tuition, final tuition payment to
4 the college than myself.

5 I believe his reimburse, it was
6 approximately 73 percent to mine being
7 approximately 50 percent. This was only
8 done after the EEOC filing and prior to
9 that he had clearly stated to police
10 officer -- PBA President, Police Officer
11 Hayes that he would not make any tuition
12 payments and the college followed up with
13 that and indicated that he did not.

14 So, after I called myself and
15 PBA President Hayes in, and said they was
16 going to pay me more than the other
17 members. They came up with the figure of
18 \$5,700, Edward Hayes wanted to know how he
19 arrived at that number. He said, well, I
20 am going to pay more than the other members
21 and we know that to be a fact not true that
22 I was paid approximately \$2,000 less than
23 Police Officer Wolf.

24 Q. Do I understand you correctly
25 that prior to the EEOC charge, it was the

1 A. ALALI

2 Deputy Commissioner's position that he was
3 not going to pay the tuition reimbursement
4 at all?

5 A. Period, correct.

6 Q. After you filed the charge a
7 determination was made to make some payment
8 to you; is that correct?

9 A. To make a payment greater than
10 other members.

11 Q. And so am I correct that the
12 circumstances -- your circumstances got
13 better as a result of filing the charge?

14 MS. NICAJ: Objection.

15 You can answer.

16 A. Apparently they did not get
17 better. It was -- as I stated a few
18 seconds ago, that it was \$2,000 less than
19 another officer who had submitted
20 approximately the same exact amount as I
21 did, difference of \$80.00. However, he
22 received an additional, approximately
23 \$2,000 more than myself.

24 Q. What is the basis for your
25 belief as to how much this other officer

1 A. ALALI

2 received?

3 MS. NICAJ: We have this, if
4 you want to see it.

5 A. A 2006 Tuition Reimbursement
6 that was furnished by Deputy Police
7 Commissioner Anthony Murphy to PBA
8 President Hayes, giving the amount
9 submitted and a final amount. And also
10 there is a percentage at the end and it
11 clearly depicts the amount that was
12 submitted and the final payment to the
13 college.

14 Q. And I gather that you have a
15 copy of the amounts that were paid to each
16 person that year?

17 A. Correct.

18 MR. MEISELS: And I would
19 produce it -- appreciate a copy of
20 that whenever it's convenient?

21 MS. NICAJ: Sure.

22 Q. Is that the basis -- is that
23 document the basis for your belief as to
24 how much was paid to each person?

25 A. Yes. I mean, what he said to

1 A. ALALI

2 me in his office in the presence of Edward
3 Hayes and what the document states, is an
4 accurate depiction. But I would also like
5 to state that there is a variation of
6 approximately \$2,000 between myself and
7 Police Officer Wolf. The amount submitted
8 is approximately identically the same, the
9 difference of only \$80.00.

10 Q. Did you call that circumstance
11 to the Deputy Commissioner's attention?

12 A. I did. I have not -- I've been
13 in his office and after having been told
14 that I would not receive any monies
15 whatsoever, despite the fact that I
16 requested permission to go to the college.
17 Despite the fact that my grades were above
18 satisfactory and it took an EEOC filing for
19 him to finally call me at my home and tell
20 me that he was going to make a payment.
21 And the payment obviously was not even
22 close to being accurate or correct of what
23 I deserved.

24 Q. Did you ever complain about
25 that to the Deputy Commissioner?

1 A. ALALI

2 A. I've -- with Edward Hayes have
3 talked to Deputy Commissioner about my
4 account being delinquent and in collection
5 and it's adversely affecting, obviously my
6 credit and every time I would register for
7 the college they basically would tell me
8 that that amount is outstanding. And
9 that's when I made the inquiries and Deputy
10 Police Commissioner stated that he would
11 not pay the tuition period to Edward Hayes
12 and obviously that was accurate because I
13 went back to the school and the amount has
14 not been paid. And currently, I believe, I
15 am approximately \$17,000, approximately
16 \$17,000 outstanding and in collection at
17 this time. Resulting from either no
18 payments or late payments or inaccurate
19 payments.

20 Q. Now, in reference to the
21 tuition reimbursement that you just
22 referred to with Deputy Commissioner
23 originally said he wouldn't do and then
24 changed his mind and did do it.

25 What was the difference between

1 A. ALALI

2 what you received and Officer Wolf
3 received?

4 A. I just stated, approximately
5 \$2,000 difference.

6 Q. How much are you in arrears at
7 Iona College?

8 A. A total of approximately
9 \$17,000.

10 Q. So --

11 A. That was just one year that I
12 gave you. That was a break down of 2006.
13 Obviously, I went to school more than one
14 year.

15 Q. Am I correct that you did
16 receive tuition reimbursement for 2005?

17 A. Like I stated earlier at my
18 previous testimony, that 2008 was the first
19 year that we received a check directly to
20 myself. All the other payments were made
21 directly to Iona College. So I don't know
22 if the payments were made or not made.
23 What I do know, and there was many
24 inquiries to the Deputy Police Commissioner
25 via Edward Hayes on the break down on how

1 A. ALALI

2 the money was going to be distributed,
3 however, he failed to provide that
4 information.

5 What I am telling you, I am in
6 collection as today and what I am telling
7 you is as a clear example of 2006 Police
8 Officer Wolf and myself had submitted
9 almost identical amounts. However, there
10 was approximately 20 percent difference in
11 tuition.

12 Q. And that's about \$2,000, am I
13 correct?

14 A. Approximately, yes.

15 Q. In 2008, did you personally
16 make any payments to Iona College?

17 A. I have a check that was given
18 to me for the first time by Deputy
19 Commissioner Murphy for the amount of
20 \$3,900.

21 Q. That's for 2008?

22 A. I believe it's for 2007.

23 Q. For 2008?

24 MS. NICAJ: For the school
25 year.

1 A. ALALI

2 Q. For the tuition reimbursement
3 period of 2008.

4 Have you personally, not from
5 The City, you personally, made any payments
6 to Iona College?

7 A. No, I have not.

8 Q. For the school year 2007, did
9 you personally make any payments to Iona
10 College?

11 A. I don't recall.

12 Q. For the year 2006, school year
13 2006, did you personally make any payments
14 to Iona College?

15 A. I do not believe so.

16 Q. For the year 2005, did you
17 personally make any payments to Iona
18 College?

19 A. No, I did not.

20 Q. And for the year 2004, did you
21 personally make any payments to Iona
22 College?

23 A. I don't believe so. I don't
24 know if I was enrolled at that time.

25 Q. Do you recall when you first

1 A. ALALI

2 enrolled at Iona College?

3 A. I presently don't remember.

4 Q. Referring to the first six
5 months of 2007, did you receive a job
6 evaluation from the New Rochelle Police
7 Department?

8 A. I believe so. I believe that I
9 been rated falsely below standards in the
10 procedures. Every six months you get
11 reevaluated with another performance
12 evaluation. So I believe 2007 would be no
13 different than previous years.

14 I also would like to make a
15 correction. I want to get the record
16 clear. I think it's important to have the
17 record clear, that regarding my previous
18 testimony with Lieutenant Al DeBara, that
19 there was regarding the hospital post that
20 I was assigned to on February 21, 2007 when
21 he had the availability of what
22 probationary officers. However, he
23 assigned me to that hospital post.
24 Lieutenant -- that was the same day of the
25 first federal complaint and after the

1 A. ALALI

2 filing of the EEOC that he had placed me on
3 that fixed hospital post. He had -- that
4 was the same day that I had asked the desk
5 officer Sergeant Wilson on why myself
6 instead of four probationary officers to be
7 placed on the hospital post. And in the
8 presence of numerous civilian members he
9 had stated, "Get the fuck out of my face,
10 not another fucking word. Get out of my
11 face." At which point I obviously went to
12 the hospital and was on a fixed hospital
13 post in New Rochelle Hospital.

14 Lieutenant DeBara subsequently
15 came by the hospital and had told me that I
16 would be receiving assignments primarily as
17 a utility call, which is a degrading
18 assignment usually given to junior officers
19 or officers that are on punishment and
20 other assignments, such as directing
21 traffic. Such as watching suicidal
22 prisoners. Such as doing county jail
23 escorts and doing civilian work inside the
24 radio room.

25 I was subsequent relieved by a

1 A. ALALI

2 probationary officer on that date. On that
3 date I went to Lieutenant
4 Fortunado(phonetic) who is the internal
5 affairs officer and had filed a complaint
6 on what had transpired. And Lieutenant
7 Fortunado had said that Lieutenant Marshall
8 would be handling the complaint due to the
9 fact that Captain Gazzola, was, I believe
10 not in town or not in the office on that
11 day.

12 I told Lieutenant Fortunado
13 that it's appropriate because he is
14 internal affairs officer and he reports
15 directly to the Police Commissioner and
16 they would led up towards corruption. He
17 advised me that Lieutenant Marshall, who
18 was at that time executive officer and
19 still is executive officer, will be
20 handling that complaint.

21 Nothing -- I did follow up to
22 Lieutenant Fortunado, nothing subsequent to
23 that was given to me of any reason why I
24 would be given those assignments. Now,
25 that was on February 21st. I believe on

1 A. ALALI

2 March 7th is when Lieutenant DeBara then
3 and that's after obviously the first
4 federal complaint, had placed me on a foot
5 patrol in the snow. And then when I asked
6 him, I made inquire why I versus other
7 probationary officers will be getting that,
8 that's when he made that bias comment that
9 we can put you anywhere we want Bin Laden.

10 I want the record to be clear
11 on that, on the date of -- on
12 February 21st, it was after the EEOC filing
13 on the federal when they were notified of
14 the federal complaint. That DeBara had put
15 me on that fixed hospital post. And I
16 illustrated that's the assignment usually
17 given to probationary officers as I stayed
18 on the unit, that Police Officer Kenny who
19 was either a junior probationary officer
20 was assigned to a fixed hospital post. I
21 just want that to be very clear.

22 Q. Is there anything else that you
23 want to clarify?

24 A. Yes. Also, on April 7, 2007, I
25 was assigned to the radio room by Sergeant

1 A. ALALI

2 Austin and I basically and there was
3 availability that week of at least three to
4 four probationary junior officers that
5 could have been given that assignment,
6 however were not. When I made the inquire
7 of him why I was being placed on that
8 assignment, he basically in a laughing way
9 stated that we're going -- it looks like we
10 are going back to the good old days.
11 Followed by a statement added by Sergeant
12 Brady that I better get lunch at 8:00
13 because I won't be able to leave the radio
14 room. Good luck.

15 Q. and this was April 7th of what
16 year?

17 A. 2007.

18 Q. May I ask you about assignments
19 relating to directing traffic.

20 Is that an assignment that's
21 often fulfilled by police officers?

22 A. Well, directing traffic, if
23 there is a severe -- serious car accident
24 or a situation that require police officer
25 to direct traffic, such as serious police

1 A. ALALI

2 accident, maybe hazardous condition, branch
3 down in the roadway. Usually a police
4 officer will be relieved by either a junior
5 police officer or civilian member, CSO. So
6 initially the officer on the scene will
7 pick up that post and subsequently be
8 relieved by either a junior officer, a
9 utility car or a civilian member.

10 Q. When you use the term "junior
11 officer," could you explain what that
12 means?

13 A. This department is -- our past
14 practice goes based on seniority. Unless
15 they are using that the seniority is out of
16 the window if you are being punished. So
17 junior officer means an officer with less
18 years of service than a senior officer.

19 Q. Is that provided for in the
20 rules and regulations of the department?

21 A. No, that is not in the rules
22 and regulations. However, it is past
23 practice.

24 Q. Is it written any place?

25 A. It's not written, no. But it

1 A. ALALI

2 officers?

3 A. Yes.

4 Q. And can you identify any other
5 police officers other than you who have
6 been assigned to be a dispatcher?

7 A. Absolutely.

8 Q. Could you tell me?

9 A. Well, I would like the record
10 reflect, I know you said other than me. I
11 have been a dispatcher approximately a year
12 and my status is, I'm not injured. I'm not
13 sick. I'm able to work the street.

14 Other police officers other
15 than myself that would work it would be
16 primarily be officers that are either on
17 sick or injured status. And if they are
18 not on sick or injured status, it would be
19 because of a shortage inside the
20 communications room that there is not
21 enough civilian members working that
22 require a police officer with dispatcher
23 experience to fill that position.

24 Like I stated, it's not a
25 permanent assignment. It has been given to

1 A. ALALI

2 me and the only time a police officer that
3 is not sick or injured that would be
4 dispatching would be if there is shortage
5 in the radio room. I have not been trained
6 to be a dispatcher in any way, shape or
7 form besides another CSO verbally telling
8 me this is what, you know, you should be
9 doing.

10 Q. Can you identify by name any
11 other police officers who are assigned the
12 dispatcher?

13 A. I don't know on the top of my
14 head, but it's not a common position. As I
15 stated, it is a position that a police
16 officer that is sick or injured will be
17 filling or a police officer that knows how
18 to dispatch and there is a shortage in the
19 communication room of civilians. It's
20 definitely not a position that a police
21 officer would be filling for a period of a
22 year on a daily basis.

23 Q. For the first six months of
24 2007, did you receive a job evaluation?

25 A. I believe so.

1 A. ALALI

2 Q. And do you remember what your
3 job evaluation was?

4 A. Well, for the last few years
5 with the exception of one job evaluation
6 that was amended and that was when Sergeant
7 Brady was the evaluating officer, it was
8 amended by him from below standards to meet
9 standards. For the last several years,
10 I've always been falsely below standards.
11 Although, that I've been consistently the
12 top producer.

13 Q. When did Sergeant Brady amend
14 the evaluation from below standard to meet
15 standards?

16 A. It could have been 2007 or
17 2006. I don't really remember.

18 Q. And in addition to Sergeant
19 Brady, do you know if anybody else had any
20 role in that job evaluation that was
21 changed from below standards to meet
22 standards?

23 A. Well, captain of patrol,
24 Captain Gazzola, would be -- the process is
25 when you get rated below standards you have

1 A. ALALI

2 a period of five days to rebut that
3 evaluation to the captain of patrol, which
4 is Captain Gazzola and then we'll hear your
5 rebuttal, set up a meeting and make a
6 determination if the evaluation would
7 remain what was authored by the evaluating
8 officer or if it would be overturned.

9 I would like to state that I've
10 always rebutted when there is a false
11 performance evaluation given to me. And as
12 recently as this year, I was given a below
13 standards evaluation by Sergeant Brady.
14 I -- as a dispatcher. I had rebutted that
15 and during the interim of my rebuttal my
16 father suffered a severe stroke and he
17 lives in Fairfax, Virginia and I had to
18 leave on an emergency, family emergency and
19 go to John Hopkins Medical Center in
20 Baltimore, Maryland. I advised Captain
21 Gazzola of the situation and immediately
22 upon my return from Baltimore, Maryland
23 back to work in New York, I received a
24 letter stating that I was not within the
25 five days perimeters of rebutting the

1 A. ALALI

2 letter. And I basically issued another
3 letter to Captain Gazzola that that would
4 be impossible for me to rebut the letter
5 knowing that I was out of the state in
6 Baltimore, Maryland at my father's bed
7 side.

8 And on March 5, 2008, Captain
9 Gazzola issued a letter stating that I'm
10 below standards and following sanctions of
11 no overtime, no switches, and whatever else
12 he attached along to that letter would
13 follow. And obviously illustrates -- when
14 you ask who was responsible, it would be
15 Captain Gazzola, but, you know, it shows
16 basically how, if he's directing the
17 supervisors to make me below standards. He
18 is the one ultimately going to review that.
19 It's corruption to the core.

20 Q. I am restricting my questions
21 to the period of time that's covered by
22 your complaint, February when you filed the
23 EEOC charge up to the date that you filed
24 the complaint in April of 2007. And if
25 that isn't clear, I am just going to remind

1 A. ALALI

2 you, that's the period I'm interested in.
3 You don't have to be exactly precise. I'm
4 not focusing on things that happened either
5 before that or things that might have
6 happened after it if it's not covered by
7 your complaint.

8 Let me go back to the first six
9 months of 2007, am I correct that you got a
10 job evaluation?

11 A. That would be accurate.

12 Q. The first six months?

13 A. I believe so.

14 Q. And that evaluation was meet
15 standards?

16 A. I don't remember if it was the
17 beginning of 2007. Like I stated, there
18 was only one in the last several years that
19 was basically amended to meet from below
20 standards to meet standards. It could have
21 been 2007, the beginning of 2007. I am not
22 100 percent sure.

23 Q. And as far as you understand
24 the people who participated in that
25 evaluation of meet standards was Sergeant

1 A. ALALI

2 Brad and Captain Gazzola; is that correct?

3 A. Yes.

4 Q. As far as you know did anybody
5 else participate?

6 A. Not to my knowledge.

7 Q. I am going to show you what's
8 been premarked as Defendant's Exhibit EE
9 and ask you if you can identify that
10 document?

11 A. It's a communication from
12 Captain Gazzola to me dated July 25, 2007,
13 regarding the performance evaluation from
14 January 1st, '07 to May 31st, '07. It
15 states that he had --

16 Q. You don't have to read it. I
17 just asked for you to identify it.

18 Have you ever seen this before?

19 A. Yes.

20 Q. You received this?

21 A. Yes, I did.

22 Q. Does that refresh your
23 recollection at all as to the period of
24 time for which you got a meet standard
25 evaluation?

1 A. ALALI

2 A. This is -- like I stated in my
3 testimony, is the only time that I met
4 standards in the last several years.

5 Q. Does that refresh your
6 recollection as to when you met standards?

7 A. Well, initially I was below
8 standards and that was amended to meet
9 standards.

10 Q. Does this refresh your
11 recollection as to when you were evaluated
12 as meeting standards?

13 A. Yes.

14 Q. And when was it?

15 A. This was dated on July 25,
16 2007. I don't know the date that I
17 received it. I don't recall.

18 Q. Do you know what period it
19 covered?

20 A. Like I stated earlier
21 January 1st, '07 to May 31st, '07.

22 Q. Again, referring to the first
23 six months of 2007, aside from the
24 testimony you've already given concerning
25 having gone on sick leave and you were

1 A. ALALI

2 assigned to the foot patrol, do you know on
3 how many other occasions you left duty
4 based upon an explanation that you were
5 sick?

6 MS. NICAJ: Objection.

7 You can answer.

8 A. Every time that I left duty --
9 well, I obviously came to work and
10 subsequently went home sick. It was a
11 direct result of an action by a supervisor
12 resulting in stress and anxiety.

13 Q. Do you recall in the first six
14 months of 2007 how often that happened?

15 MS. NICAJ: Objection.

16 You can answer.

17 A. I don't recall.

18 Q. I call your attention to
19 March 14th of 2007, at that time what was
20 your tour of duty?

21 A. It would be impossible for me
22 to recall without you providing me some
23 type of documentation.

24 Q. Referring back to March of
25 2007, I am just asking what your tour of

1 A. ALALI

2 duty was?

3 A. I misunderstood you. I thought
4 you said if I was working or not.

5 It was eight to four.

6 Q. Referring to March 14, 2007, do
7 you recall if you left duty based upon
8 illness at approximately 11:00 in the
9 morning?

10 A. I don't recall.

11 Q. Referring to April 7, 2007, do
12 you recall if you left duty at about
13 nine o'clock in the morning?

14 MS. NICAJ: Objection.

15 lyou can answer.

16 A. I don't recall.

17 Q. Referring to April 8, 2007, do
18 you recall if you left duty at
19 approximately 9:15 in the morning based
20 upon an explanation of being sick?

21 MS. NICAJ: Objection.

22 You can answer.

23 A. Mr. Meisels, I don't presently
24 recall. However, I would like to make it
25 clear that you are reading from a set of

1 A. ALALI

2 dates in front of you that I went home
3 sick. There was a whole bunch of times
4 that I did go sick in 2007, like I stated
5 after being placed on foot post in the snow
6 and put on a fixed hospital post followed
7 by comments that were bias that caused
8 tremendous stress and anxiety. So you can
9 go through the whole list of dates,
10 anything that you have in front of you and
11 I have gone home sick a bunch of times in
12 2007. I don't know the dates offhand,
13 apparently you have them, but there was
14 direct cause by a supervisor retaliating
15 against me because of the federal lawsuit.

16 Q. Other than the comments you
17 already testified to, you don't have to
18 repeat yourself, were any other comments
19 made to you that caused you to leave sick?

20 A. Yes.

21 Q. Could you tell us what they
22 were?

23 A. I don't know if it caused me to
24 be home sick or not. I don't have the
25 dates in front of me, but probably had.

1 A. ALALI

2 There was April 8, 2007, was when Sergeant
3 Wilson had directed me to perform civilian
4 dispatching functions, although
5 approximately three to four other junior
6 probationary officers available. When I
7 asked him and questioned him why I was
8 being placed as dispatch rather than the
9 other officers, his response was it's
10 Easter and you're an Arab, camel jockeys
11 don't celebrate Easter.

12 Q. Other than what you already
13 testified to, were any other comments made
14 to you that caused you to leave duty on the
15 basis of illness?

16 MS. NICAJ: Objection.

17 You can answer.

18 A. In the first six months of
19 2007?

20 Q. Correct.

21 A. I don't presently recall at
22 this time.

23 However, there were, you know,
24 the Debara's comments in February 2007.
25 Sergeant Austin's comments in April 20,

1 A. ALALI

2 2007, Sergeant Wilson's comments in April
3 2007. Whether that, on those particular
4 dates I went home sick. I don't presently
5 recall without having something to refresh
6 my memory.

7 Q. Now, when you say that
8 Sergeant -- when you say Lieutenant
9 DeBara's comment, which comment are you
10 referring to?

11 A. The comment on, I believe it
12 was in March of 2008, the beginning of
13 March when he basically stated that they
14 can do -- he can do whatever he wants with
15 me, Bin Laden.

16 Q. And where did that conversation
17 occur?

18 A. That occurred right outside,
19 either right outside the role call room.
20 Right after I was given the assignment.

21 Q. And do you recall what date
22 that was?

23 A. I believe it was February 7,
24 2007.

25 Q. You referred to Sergeant

1 A. ALALI

2 Austin's comment, what comment was that?

3 A. I stated on April 7, 2007. I
4 was given that civilian dispatching
5 assignment again and I already told you
6 what his comment was.

7 Q. And where were you at the time
8 you had that conversation with Sergeant
9 Austin?

10 A. Inside the communications room.

11 Q. And do you recall approximately
12 what time that occurred?

13 A. Right after -- on or about
14 8:00.

15 Q. Now, earlier you referenced a
16 comment made by Sergeant Wilson?

17 A. Yes.

18 Q. What comment was that? What
19 did Sergeant Wilson say?

20 A. I just told you.

21 Q. Well, we were at Sergeant
22 Austin.

23 MS. NICAJ: Objection. He did
24 tell you previously. But go ahead.

25 A. I would tell you again. I will

1 A. ALALI

2 talk nice and slow. On April 8, 2008,
3 Sergeant Wilson -- correction on April 8,
4 2007, not 2008, 2007, Sergeant Wilson had
5 assigned me to work as a dispatcher. At
6 that point in time I asked him why I was
7 receiving that assignment rather than other
8 probationary officers who were available.
9 Okay, and he had told me that I'm an Arab
10 and it's Easter and camel jockeys don't
11 celebrate Easter.

12 Excuse me for a second.

13 Off the record.

14 (Whereupon, an off-the-record
15 discussion was held.)

16 MS. NICAJ: As I did last --
17 the first date of Mr. Alali's
18 deposition transcript, I'm going to
19 request a copy on his behalf so he
20 could review and make my changes or
21 corrections he deems fit.

22 MR. MEISELS: And I would
23 suggest that you make arrangements
24 with the Stenographer. I am sure she
25 would be glad to accommodate you.

1 A. ALALI

2 MS. NICAJ: I did. Thank you.

3 Q. Officer Alali, before we broke
4 we were discussing negative comments made
5 by various people and you mention a comment
6 made by Lieutenant DeBara, Sergeant Austin
7 and Sergeant Wilson. In the time period
8 that we were discussing, the first six
9 months of 2007, did any other people make
10 comments to you that you believed were
11 derogatory?

12 MS. NICAJ: Apart from what
13 he's already testified?

14 MR. MEISELS: Correct.

15 MS. NICAJ: With respect to
16 also the first day of the deposition?

17 MR. MEISELS: Absolutely.

18 A. April 2007 Sergeant Morrell,
19 Sergeant Austin had advised me that I was
20 to be given undesirable assignments, given
21 below standards evaluation. That was at
22 the direction they stated of Lieutenant
23 Marshall and Captain Gazzola.

24 Aside from that what I
25 previously testified to. I don't recall

1 A. ALALI

2 presently anything else in those six
3 months.

4 Q. Earlier today you discussed
5 circumstances relating to reimbursement for
6 your tuition for the school year of 2006,
7 when did you apply for that reimbursement?

8 A. When the time period I was
9 supposed to apply and that's prior to
10 going -- taking the classes.

11 Q. Isn't it required that you
12 actually pass the classes and prove that
13 you've done that before you are entitled to
14 the reimbursement?

15 MS. NICAJ: Objection.

16 You can answer.

17 A. The reimbursement for Iona
18 College on the trimester system is
19 different than, I believe other colleges,
20 being that the trimester breaks it down to
21 three times a year. I don't know how
22 deputy commissioner handles the budgeting
23 of that. I know that the payment is made
24 after the successful completion and a grade
25 of a C or higher. Which I've always had

1 A. ALALI

2 the exact timing of when he makes that
3 payment or when payment is to be made to
4 Iona College, I don't know.

5 Q. So in reference to the school
6 year 2006, would it have been necessary
7 that you take and pass the courses before
8 you could apply for reimbursement?

9 MS. NICAJ: Objection. He can
10 answer.

11 A. You apply for reimbursement
12 first then you enroll in the classes. Then
13 after you take the classes and successfully
14 complete them with a C or better you submit
15 the grades. After you submit the grades at
16 some point thereafter the deputy
17 commissioner will make a payment to the
18 college directly. This is the first year
19 that the deputy commissioner has made a
20 payment directly to a member itself.

21 Q. In reference to the school year
22 2006, when did you submit your grades to
23 deputy commissioner?

24 A. Immediately after the grades
25 were posted.

1 A. ALALI

2 Q. And do you recall the dates
3 that happened?

4 A. I do not.

5 Q. In reference to the first six
6 months of 2007, would it be fair to say
7 that you reported sick while on duty more
8 than seven times?

9 MS. NICAJ: Objection.

10 You can answer.

11 A. I don't presently recall, but
12 that was approximately that amount,
13 possibly a few days more.

14 Q. Would it be fair to say for the
15 first six months of 2007 you reported sick
16 for the full day at least six times?

17 MS. NICAJ: Objection.

18 You can answer.

19 A. I don't presently recall.

20 Q. Do you recall having called in
21 sick, taking a full day at any time during
22 the first six months of 2007?

23 MS. NICAJ: Objection.

24 You can answer.

25 A. Repeat the question please.

1 A. ALALI

2 Q. Sure.

3 Do you recall having called in
4 sick and taking off a full day at any time
5 during the first six months of 2007?

6 MS. NICAJ: Objection.

7 You can answer.

8 A. I don't presently recall.

9 Q. On the occasions where you went
10 home sick after having started your tour of
11 duty, were those all occasioned by comments
12 that were made by other people in the
13 department?

14 MS. NICAJ: Objection.

15 You can answer.

16 A. They were either comments made
17 or assignments, degrading assignments that
18 were given.

19 Q. Other than the assignments that
20 we've already discussed both this morning
21 and at the first part of your deposition,
22 did you receive any other assignments
23 during the first six months of 2007 that
24 you perceive to be degrading?

25 A. I believe I covered all the

1 A. ALALI

2 basis.

3 Q. Earlier this morning you had
4 mentioned an assignment to transport a
5 prisoners to the jail, am I correct that
6 you perceive that to be a degrading
7 assignment?

8 A. That is an assignment, again,
9 that is primarily, examples to be
10 illustrated on a day to day basis even
11 given to an assignment that they deem to
12 be -- needed to be punished or they, the
13 management excluding from being punished
14 will be an officer who's either
15 traditionally goes by seniority order and
16 junior officer.

17 Q. So during the first six months
18 of 2007, were you assigned to transport
19 prisoners to the jail?

20 A. If there was a prisoner to be
21 transported, I was definitely on that
22 transport if I was working on that day.

23 Q. Did you perceive that to be a
24 degrading assignment?

25 A. Yes. Due to the fact that

1 A. ALALI

2 there were probationary or junior officers
3 that should have been given that assignment
4 who routinely are given that assignment.

5 Q. When prisoners are transported
6 to the jail, what kind of a vehicle was
7 used?

8 A. It has been amended if there is
9 more than it used to be a few prisoners
10 two, three or four to take radio cars back
11 and forth to the jail. Captain Gazzola had
12 amended that after getting a new prisoner
13 bus, which is bus number 13 and he wanted
14 that bus to be used at all times. whether
15 it was one prisoner or whether it was, you
16 know, several prisoners. So it has changed
17 throughout the years, but with initially it
18 would depend on the amount of prisoners and
19 then there came a point in time when
20 Captain Gazzola issued a directive that no
21 matter how many prisoners that bus number
22 13 had to be utilized to transport back and
23 forth to the jail.

24 Q. So the term assigned to the
25 vehicle is used to transport vehicles is

1 A. ALALI

2 called the bus?

3 A. bus 13 is -- I don't know what
4 you call it. It's probably a hybrid of a
5 passenger vehicle or a van, we refer to it
6 as a bus. The previous bus was bus 14.

7 Q. The police officer refer to it
8 as a bus, is that right, is that how you
9 refer to the vehicle, it's a bus?

10 A. Yes.

11 Q. Is it obligatory that some of
12 the buses that are used by the police
13 department are driven by someone with a CDL
14 license?

15 A. There is a bus that does not
16 require a CDL license. However, the
17 department requires -- it's not required by
18 vehicle and traffic law. However, the
19 department does require a member to drive a
20 particular bus.

21 Q. Which bus is that?

22 A. The older prisoner transport
23 bus number 14.

24 Q. And do you have a CDL license?

25 A. Yes.

1 A. ALALI

2 Q. And do you know which, if any,
3 probationary officers have CDL licenses?

4 A. A whole bunch of them just
5 received their license.

6 Q. When was that?

7 A. There is a list that they have.
8 It would be impossible for me to memorize
9 the list, there are so many names on it.
10 But, yes, probationary officers just
11 recently, I know, received their CDL
12 license. Which is a license that is it's
13 required by the department, however, not
14 mandated by New York State Vehicle and
15 Traffic Law to have a CDL to operate a
16 police bus.

17 Q. And you are aware of a number
18 of probationary officers who just received
19 CDL licenses?

20 A. There's probation officers, new
21 officers being hired all the time. It
22 would be impossible without me having the
23 list in front of me to see who's a
24 probationary officer that currently
25 possesses one and who's not and who's is a

1 A. ALALI

2 junior officer. There are many officers
3 that possess a CDL license.

4 Q. Referring to the first six
5 months of 2007, can you identify any
6 probationary officers that has CDL
7 licenses?

8 A. Not without having the list in
9 front of me. But I believe, that the
10 prisoner bus 13, the newer bus, does not
11 does not require a CDL license by the
12 department. Neither requires it by New
13 York State Vehicle Traffic Law, but I
14 believe that the newer bus does not require
15 it.

16 And currently there was a
17 Police Officer Michael Vacarro(phonetic)
18 who was a junior officer that had removed
19 both seat belts out of that bus by a pocket
20 knife that he had, committing a felony act
21 of criminal mischief in the penal law. The
22 punishment that was meted out was loss of
23 four vacation days. And he was an officer
24 that was junior to myself that had gone to
25 the jail.

1 A. ALALI

2 Q. Referring to the first six
3 months of 2007, did you identify any police
4 officers, police officers who were junior
5 to you who had CDL licenses?

6 A. Like I said earlier,
7 Mr. Meisels, without a list in front of me
8 it would be very difficult or impossible to
9 do so.

10 Q. In reference to the
11 disciplinary charges that were preferred
12 against you in February 15, 2007, do you
13 recall who signed the charges, who?

14 A. Are you done with your
15 question?

16 Q. Yes.

17 A. Can you repeat it please.

18 Q. In reference to the
19 disciplinary charges that were preferred on
20 February 15, 2007, do you recall who signed
21 those charges?

22 MS. NICAJ: Objection.

23 You can answer.

24 A. There's two sets of
25 disciplinary charges, one dated 9/11 --

1 A. ALALI

2 Q. I am just referring to
3 February 15, 2007.

4 A. That would be preferred by
5 Captain Gazzola.

6 Q. And do you know whether or not
7 Captain Gazzola discussed those charges
8 with anybody else before he preferred them?

9 MS. NICAJ: Objection.

10 You can answer.

11 A. I would not be privy to that
12 information.

13 Also for the record, I would
14 like to also state on your questioning me
15 about civilian complaints that I received
16 in 2007, and I believe you introduced into
17 evidence a correction made by Captain
18 Gazzola regarding a number of complaints
19 received in that year. What I would like
20 the record to reflect is the fact that all
21 of the civilian complaints made in that
22 calendar year, were either unsubstantiated
23 or exonerated, including the excessive
24 force complaint and that evaluation was
25 authored by Sergeant Wilson. Stating that

1 A. ALALI

2 basically I had whatever the amount of
3 complaints were and not making it clear as
4 to the disposition of all the complaints
5 including stating that I had outstanding
6 excessive force complaint. That complaint,
7 along with the other complaints, were
8 unsubstantiated. I talked to Lieutenant
9 Fortunado regarding the excessive force
10 complaint and he unsubstantiated that as
11 well and the complaint was -- while I was
12 working the camera car and it couldn't be
13 viewed. So basically those complaints
14 were -- the charge against me, as if they
15 had been substantiated or had merit to
16 them. However, the author of that
17 evaluation knew that if the complaints were
18 unsubstantiated.

19 I also would like to explain
20 that when you have the number amount of
21 contacts with the public, as I do as being
22 a top producing officer in aspects, such as
23 arrest and summonses, the likelihood of
24 getting a civilian complaint against you is
25 greater, obviously. And if you take the

1 A. ALALI

2 number of arrests and the number of moving
3 violations and parking summonses, the
4 number of contacts I have versus the number
5 of complaints, it's much less than an
6 officer who has much fewer activity, with
7 fewer complaints but their percentage of
8 ratio of their complaints would be higher
9 than myself. So, you know, that has been
10 always been the practice of the department
11 to -- when I talk about false performance
12 evaluations, one of the aspects would be to
13 list unsubstantiated or exonerated
14 complaints in there and use that against me
15 to rate me as below standards officer.

16 Q. Is it your understanding that
17 the number of arrests that you made and
18 tickets that you issued, justify the number
19 of civilian complaints that you received?

20 MS. NICAJ: Objection.

21 You can answer.

22 A. I am not offering a
23 justification. I'm just offering
24 statistically speaking, the greater number
25 of contacts that you have with the public

1 A. ALALI

2 increases your exposure to civilian
3 complaints. By the nature of our work
4 issue someone a ticket or taking them into
5 custody, obviously would not make them
6 happy or satisfied and the greater amount
7 of times you do so, would increase the
8 potential of that happening. And what I am
9 stating here clearly, is if you have an
10 officer with a fewer complaints than
11 myself, however, had substantially fewer
12 contacts with the public, we're getting a
13 greater ratio of complaints than I do, with
14 the number of arrests, parking summonses
15 and arrests that I have with the public.

16 And also understand that when I
17 was forced to work that camera car I was
18 assigned to specific functions of elevating
19 the flow of traffic, and given specific
20 types of enforcement, such as double
21 parking summonses and U-turns and those are
22 the -- those summonses increase the
23 potential of a complaint people are going
24 into a store running out and they are
25 unhappy about it. And I was ordered to do

1 A. ALALI

2 so and that was all captured on camera. So
3 to obviously to use that against me and
4 performance evaluation to, I guess boot
5 strap that would be a below standards
6 evaluation when they know the outcome of
7 those complaints, such as the one authored
8 by Sergeant Wilson, I believe reading that
9 there was an excessive force complaint that
10 was pending and that complaint was already
11 disposed of as being unsubstantiated or
12 exonerated.

13 Q. You used two terms
14 unsubstantiated or exonerated, could you
15 explain what you understand the difference
16 to be?

17 A. The final outcome, I don't know
18 how the department defines the two. But I
19 would perceive them to be the final outcome
20 is that the officer did, did not do
21 anything wrong or, you know, I don't know
22 how they use those terms interchangeably,
23 but I know that's clearly different than
24 being substantiated. Obviously
25 unsubstantiated would be the opposite of

1 A. ALALI

2 substantiated.

3 Q. I am asking you what your
4 understanding is as to what the difference
5 is between unsubstantiated versus
6 exonerated?

7 A. I believe it to be the same
8 outcome.

9 Q. What is the difference in the
10 term?

11 MS. NICAJ: Objection.

12 You can answer.

13 A. I don't know how the department
14 differentiate the two, but I perceive them
15 to be the same. I perceive them to be the
16 opposite of obviously substantiated.

17 Q. So I understand -- I am asking
18 what your understanding, not somebody
19 else's. Your understanding is that it's
20 the same?

21 A. It was never explained to me.
22 But I would think the direct opposite of
23 substantiated.

24 Q. And do you have any
25 understanding as to the difference between

1 A. ALALI

2 unsubstantiated and exonerated?

3 A. No.

4 Q. You referenced a time that you
5 were assigned to a camera car?

6 A. Correct.

7 Q. At the time you were assigned
8 to that camera car, you were working eight
9 to four?

10 A. Yes.

11 Q. Do you know who was assigned to
12 that car four to 12?

13 A. Only an officer that basically
14 was working, not the sector, if there were
15 not enough cars to fill that. What I do
16 know is on day tours when I was working, I
17 was only to be assigned that car and nobody
18 else. I can't speak for the other two
19 because I wasn't there.

20 Q. So am I correct, that you don't
21 know who was assigned to use that car on
22 the four to 12 tour?

23 MS. NICAJ: Objection.

24 You can answer.

25 A. Not particularly no, no. It's

1 A. ALALI

2 not a sector car.

3 Q. Do you know if anyone was
4 assigned to use it on the four to 12 tour?

5 MS. NICAJ: Objection.

6 You can answer.

7 A. No, I don't.

8 Q. Do you know who was assigned to
9 use that car on the 12 to eight tour?

10 A. No.

11 Q. Do you know if anyone was
12 assigned to use it on the 12 to eight tour?

13 MS. NICAJ: Objection.

14 You can answer.

15 A. No.

16 Q. Do you know, I am now referring
17 again to just the first six months of 2007,
18 do you know whether or not Sergeant Austin
19 was ever aware that you had filed an EEOC
20 charge?

21 A. Mr. Meisels, just for the
22 record let me backup regarding car 18.

23 What I do know is that, I was
24 to be assigned to it, and if there was no
25 other -- that car was not available, I was

1 A. ALALI

2 applied for the position in the County of
3 Westchester?

4 A. No, not presently.

5 Q. Do you recall what year you
6 applied for the position with the Town of
7 Mamaroneck?

8 A. There were pretty much within
9 the same time period. It could have been
10 2006.

11 Q. When you say the same time
12 period, you mean the same time period that
13 you applied for the position with the
14 County of Westchester?

15 A. Not exactly, within the same
16 year.

17 Q. So am I correct, those two
18 applications were made in the same year?

19 A. Yes.

20 Q. Okay.

21 And that it could have been
22 2006?

23 A. It could have been, correct.

24 Q. Other than what you already
25 testified to, do you have any reason to

1 A. ALALI

2 believe that Deputy Commissioner Murphy was
3 aware that you had filed an EEOC charge?

4 A. Yes. The EEOC charge was faxed
5 over to the Commissioner's office, which
6 both the deputy and the police commissioner
7 share together.

8 Q. Are you saying that the EOC
9 charges faxed from the office, which is
10 shared by the deputy and the commissioner?

11 MS. NICAJ: Objection.
12 You can answer.

13 A. That's one of the ways they
14 were notified.

15 Q. So, am I correct, that the
16 basis for your belief that Deputy
17 Commissioner Murphy was aware of it, was
18 that he shares an office with the
19 commissioner?

20 MS. NICAJ: And apart from what
21 else that he's already testified to?

22 MR. MEISELS: Correct.

23 MS. NICAJ: okay.

24 A. There's so much that I
25 testified to regarding tuition and phone

1 A. ALALI

2 calls to my house.

3 Q. You don't have to repeat that,
4 it's different.

5 A. Okay.

6 Q. Other than what you already
7 testified to, is there any reason to
8 believe that Deputy Police Commissioner
9 Murphy was aware that you filed an EEOC
10 charge?

11 A. Presently don't recall
12 anything.

13 Q. Other than what you already
14 testified to, is there any reason to
15 believe that Deputy Commissioner Murphy was
16 aware that you had filed your first
17 lawsuit?

18 A. I don't presently recall
19 anything further.

20 Q. What's the basis for your
21 belief that Commissioner Carroll was aware
22 that you had filed an EEOC charge?

23 MS. NICAJ: Objection.

24 You can answer.

25 A. The fact that he authorized

1 A. ALALI

2 Captain Gazzola, I don't know if I
3 testified to that or not, authorized
4 Captain Gazzola with the disciplinary
5 charges against me, 9/11 and on April '07.
6 And the numerous memorandums that I had
7 sent him that I was being retaliated
8 against despite a federal action that was
9 pending.

10 Q. Do you know when Commissioner
11 Carroll became aware of the filing of the
12 EOC charge?

13 A. I don't know the exact date,
14 but I would say prior to February 21st of
15 2007.

16 Q. When disciplinary charges were
17 preferred against you on February 15th, do
18 you know if the commissioner was on
19 vacation?

20 A. I don't know the commissioner's
21 status on a day to day basis whether he's
22 in the office or on vacation. I am not
23 privy to that.

24 Q. When those charges were
25 preferred who was present?

1 A. ALALI

2 A. Captain Gazzola, PBA President
3 Edward Hayes, myself and I am not sure if
4 Lieutenant Marshall was or not. He might
5 have been, I am not sure.

6 Q. Where were you when you were
7 given a copy of the charges?

8 A. In New Rochelle Police
9 Department, Captain Gazzola's office.

10 Q. And at the time the charges
11 were preferred, did you have a conversation
12 with Captain Gazzola?

13 A. I don't presently recall.

14 Q. Do you recall if PBA President
15 Hayes, had a conversation with Captain
16 Gazzola?

17 MS. NICAJ: Objection.
18 You can answer.

19 A. I don't presently recall.

20 MR. MEISELS: Off the record.

21 (Whereupon, an off-the-record
22 discussion was held.)

23 Q. Officer Alali, other than what
24 you already testified to, that's today and
25 the first part of your deposition, do you

1 A. ALALI

2 have any other reason to believe that
3 Sergeant Wilson was aware that you had
4 filed an EEOC charge?

5 A. No, I presently don't have any
6 other information.

7 Q. Other than what you already
8 testified to, do you have any reason to
9 believe that Sergeant Wilson was aware that
10 you had filed a lawsuit in February 2007?

11 A. Other than what I just
12 testified to no --

13 Q. Other than --

14 A. No, I don't presently remember
15 any other information.

16 Q. Okay.

17 Now, I am going to ask you the
18 same questions with respect to Lieutenant
19 Marshall.

20 Other than what you already
21 testified to, do you have any other reason
22 to believe that Lieutenant Marshall was
23 aware that you had filed an EEOC charge?

24 A. I don't have, presently have
25 any other information.

1 A. ALALI

2 Q. And other than what you already
3 testified to, do you have any reason to
4 believe that Lieutenant Marshall was aware
5 that you had filed a lawsuit in February of
6 2007?

7 A. Not presently.

8 Q. And in reference to Sergeant
9 Morrell, other than what you already
10 testified to, do you have any reason to
11 believe that Sergeant Morrell was aware
12 that you had filed an EEOC charge?

13 A. Not presently.

14 Q. Other than what you've already
15 testified to, do you have any other reason
16 to believe that Sergeant Morrell was aware
17 that you had filed a lawsuit in February of
18 2007?

19 A. Not presently.

20 Q. Did you use anything to refresh
21 your recollection with before you testified
22 today?

23 A. The federal complaint.

24 Q. Anything else?

25 A. No.